



# House of Representatives

General Assembly

**File No. 589**

*January Session, 2001*

Substitute House Bill No. 6652

*House of Representatives, May 3, 2001*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING REVISIONS TO THE CHILD PROTECTION LAWS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (f) of section 17a-28 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (f) The commissioner or [his] the commissioner's designee shall,  
4 upon request, promptly provide copies of records, without the consent  
5 of a person, to (1) a law enforcement agency, (2) the Chief State's  
6 Attorney or [his] the Chief State's Attorney's designee or a state's  
7 attorney for the judicial district in which the child resides or in which  
8 the alleged abuse or neglect occurred or [his] the state's attorney's  
9 designee, for purposes of investigating or prosecuting an allegation of  
10 child abuse or neglect, (3) the attorney appointed to represent a child  
11 in any court in litigation affecting the best interests of the child, (4) a  
12 guardian ad litem appointed to represent a child in any court in  
13 litigation affecting the best interests of the child, (5) the Department of

14 Public Health, which licenses any person to care for children for the  
15 purposes of determining suitability of such person for licensure, (6)  
16 any state agency which licenses such person to educate or care for  
17 children pursuant to section 10-145b or 17a-101j, (7) the Governor,  
18 when requested in writing, in the course of [his] the Governor's official  
19 functions or the Legislative Program Review and Investigations  
20 Committee, the committee of the General Assembly on judiciary and  
21 the committee of the General Assembly having cognizance of matters  
22 involving children when requested in the course of such committees'  
23 official functions in writing, and upon a majority vote of said  
24 committee, provided no names or other identifying information shall  
25 be disclosed unless it is essential to the legislative or gubernatorial  
26 purpose, [and] (8) a local or regional board of education, provided the  
27 records are limited to educational records created or obtained by the  
28 state or Connecticut-Unified School District #2, established pursuant to  
29 section 17a-37, and (9) a party in a custody proceeding under section  
30 17a-112, or section 46b-129, as amended by this act, in the Superior  
31 Court where such records concern a child who is the subject of the  
32 proceeding or the parent of such child. A disclosure under this section  
33 shall be made of any part of a record, whether or not created by the  
34 department, provided no confidential record of the Superior Court  
35 shall be disclosed other than the petition and any affidavits filed  
36 therewith in the superior court for juvenile matters, except upon an  
37 order of a judge of the Superior Court for good cause shown. The  
38 commissioner shall also disclose the name of any individual who  
39 cooperates with an investigation of a report of child abuse or neglect to  
40 such law enforcement agency or state's attorney for purposes of  
41 investigating or prosecuting an allegation of child abuse or neglect.  
42 The commissioner or [his] the commissioner's designee shall, upon  
43 request, promptly provide copies of records, without the consent of the  
44 person, to (A) the Department of Public Health for the purpose of  
45 determining the suitability of a person to care for children in a facility  
46 licensed under sections 19a-77 to 19a-80, inclusive, 19a-82 to 19a-87,

47 inclusive, and 19a-87b, and (B) the Department of Social Services for  
48 determining the suitability of a person for any payment from the  
49 department for providing child care.

50 Sec. 2. Subsection (a) of section 17a-101k of the general statutes is  
51 repealed and the following is substituted in lieu thereof:

52 (a) The Commissioner of Children and Families shall maintain a  
53 registry of the reports received pursuant to sections 17a-101a to 17a-  
54 101d, inclusive, and 17a-103, and shall adopt regulations to [permit]  
55 implement the provisions of this section, including the use of the  
56 registry on a twenty-four-hour daily basis to prevent or discover abuse  
57 of children and the establishment of a hearing process for any appeal  
58 by a person of the commissioner's determination that such person is  
59 responsible for the abuse or neglect of a child pursuant to subsection  
60 (b) of section 17a-101g. The information contained in the reports and  
61 any other information relative to child abuse, wherever located, shall  
62 be confidential subject to such statutes and regulations governing their  
63 use and access as shall conform to the requirements of federal law or  
64 regulations. Any violation of this section or the regulations adopted by  
65 the commissioner under this section shall be punishable by a fine of  
66 not more than one thousand dollars or imprisonment for not more  
67 than one year.

68 Sec. 3. Subsection (a) of section 17a-111b of the general statutes is  
69 repealed and the following is substituted in lieu thereof:

70 (a) The Commissioner of Children and Families or any other party  
71 may, at any time, petition the court for a determination on whether  
72 reasonable efforts to reunify the parent with the child are appropriate.  
73 The court shall hold an evidentiary hearing on the petition within  
74 thirty days of the filing of the petition. The court may determine that  
75 such efforts are not appropriate if the court finds upon clear and  
76 convincing evidence that: (1) The parent has subjected the child to the  
77 following aggravated circumstances: (A) The child has been

78 abandoned as defined in subsection (j) of section 17a-112; or (B) the  
79 parent has inflicted sexual molestation or exploitation or severe  
80 physical abuse on the child or engaged in a pattern of abuse of the  
81 child; (2) the parent has killed, through deliberate, nonaccidental act,  
82 another child of the parent or a sibling of the child, or has required,  
83 commanded, importuned, attempted, conspired or solicited to commit  
84 the killing of the child, another child of the parent or sibling of the  
85 child, or has committed an assault, through deliberate, nonaccidental  
86 act, that resulted in serious bodily injury of the child, another child of  
87 the parent or a sibling of the child; (3) the parental rights of the parent  
88 to a sibling have been involuntarily terminated within three years of  
89 the filing of a petition pursuant to this section, provided the  
90 commissioner has made reasonable efforts to reunify the parent with  
91 the child during a period of at least ninety days; [or] (4) the parent was  
92 convicted by a court of competent jurisdiction of sexual assault, except  
93 a conviction of a violation of section 53a-71 or 53a-73a resulting in the  
94 conception of the child; or (5) the child was placed in the care and  
95 control of the commissioner pursuant to the provisions of sections 17a-  
96 57 to 17a-61, inclusive.

97 Sec. 4. Subdivision (2) of subsection (k) of section 46b-129 of the  
98 general statutes is repealed and the following is substituted in lieu  
99 thereof:

100 (2) At such hearing, the court shall determine whether it is  
101 appropriate to continue to make reasonable efforts to reunify the child  
102 or youth with the parent. In making this determination, the court shall  
103 consider the best interests of the child, including the child's need for  
104 permanency. If the court finds upon clear and convincing evidence  
105 that further efforts are not appropriate, the commissioner has no duty  
106 to make further efforts to reunify the child or youth with the parent. If  
107 the court finds that further efforts are appropriate, such efforts shall  
108 ensure that the child or youth's health and safety are protected and  
109 such efforts shall be specified by the court, including the services to be

110 provided to the parent, what steps the parent may take to address the  
111 problem that prevents the child or youth from safely reuniting with  
112 the parent and a time period, not longer than six months, for such  
113 steps to be accomplished.

114 Sec. 5. Section 17a-76 of the general statutes is repealed and the  
115 following is substituted in lieu thereof:

116 (a) Application for commitment of a mentally ill child to a hospital  
117 for mental illness shall be made to the court of probate in the district in  
118 which such child resides, or when his or her place of residence is out of  
119 state or unknown, the district in which he or she may be at the time of  
120 filing the application, except in cases where it is otherwise expressly  
121 provided by law. In any case in which the child is hospitalized under  
122 sections 17a-75 to 17a-83, inclusive, and an application for the  
123 commitment of such child is filed in accordance with the provisions of  
124 sections 17a-75 to 17a-83, inclusive, the jurisdiction shall be vested in  
125 the court of probate for the district in which the hospital where such  
126 child is a patient is located. In the event that an application has  
127 previously been filed in another court of probate with respect to the  
128 same confinement, no further action shall be taken on such previous  
129 application. Notwithstanding the provisions of section 45a-7, if the  
130 child is confined to a hospital outside the district of the court of  
131 probate in which the application for [his] the child's commitment was  
132 made, the judge of probate from the district where the application was  
133 filed shall have jurisdiction to hold the hearing on such commitment at  
134 the hospital where such child is hospitalized. The court shall exercise  
135 jurisdiction only upon written application alleging that such child  
136 suffers from a mental disorder and is in need of treatment. Such  
137 application may be made by any person, and shall include the name  
138 and address of the hospital for mental illness to which the child's  
139 commitment is being sought and shall include the name, address and  
140 telephone number of any attorney appointed for the child by the  
141 Superior Court pursuant to section 46b-129, as amended by this act.

142 (b) Any application for commitment of any child under sections 17a-  
143 75 to 17a-83, inclusive, shall be transferred from the court of probate  
144 where it has been filed to the superior court of appropriate venue upon  
145 motion of any legal party except the petitioner.

146 (c) The motion for such transfer shall be filed with the court of  
147 probate prior to the beginning of any hearing on the merits. The  
148 moving party shall send copies of such motion to all parties of record.  
149 The court shall grant such motion the next business day after its receipt  
150 by the court. Immediately upon granting the motion, the clerk of the  
151 court shall transmit by certified mail the original file and papers to the  
152 superior court having jurisdiction. All parties to the proceeding shall  
153 be notified of the date on which the file and papers were transferred.

154 (d) The court of probate shall appoint an attorney for such child  
155 from the panel of attorneys established by subsection (b) of section  
156 17a-498 on the next business day after receipt of the application, and as  
157 soon as reasonably possible shall appoint physicians as required under  
158 section 17a-77, which appointments shall remain in full force and effect  
159 notwithstanding the fact that the matter has been transferred to the  
160 Superior Court.

161 (e) On any matter not transferred to the Superior Court in  
162 accordance with this section, upon the motion of the child for whom  
163 application has been made, or his or her counsel, or the judge of  
164 probate having jurisdiction over such application, filed not later than  
165 three days prior to any hearing scheduled on such application, the  
166 Probate Court Administrator shall appoint a three-judge court from  
167 among the several judges of probate to hear such application. Such  
168 three-judge court shall consist of at least one judge who is an attorney  
169 at law admitted to practice in this state. The judge of the court of  
170 probate having jurisdiction over such application under the provisions  
171 of this section shall be a member, provided such judge may disqualify  
172 himself or herself in which case all three members of such court shall

173 be appointed by the Probate Court Administrator. Such three-judge  
174 court when convened shall have all the powers and duties set forth  
175 under sections 17a-75 to 17a-83, inclusive, and shall be subject to all of  
176 the provisions of law as if it were a single-judge court. No such child  
177 shall be involuntarily hospitalized without the vote of at least two of  
178 the three judges convened under the provisions of this section. The  
179 judges of such court shall designate a chief judge from among their  
180 members. All records for any case before the three-judge court shall be  
181 maintained in the court of probate having jurisdiction over the matter.

182 Sec. 6. Subsection (b) of section 17a-101i of the general statutes is  
183 repealed and the following is substituted in lieu thereof:

184 (b) After an investigation has been completed and the  
185 Commissioner of Children and Families, based upon the results of the  
186 investigation, has reasonable cause to believe that a child has been  
187 abused by a staff member of a public or private institution or facility  
188 providing care for children or private school, the commissioner shall  
189 notify the executive director of such institution, school or facility and  
190 shall provide records, whether or not created by the department  
191 concerning such investigation to such executive director. Such  
192 institution, school or facility may suspend such staff person. Such  
193 suspension shall be with pay and shall not result in diminution or  
194 termination of benefits to such employee. Such suspension shall  
195 remain in effect until the incident of abuse has been satisfactorily  
196 resolved by the employer of the staff person. If such staff member has  
197 a professional license or certification issued by the state, the  
198 commissioner shall forthwith notify the state agency responsible for  
199 such license or certification of the staff member and provide records,  
200 whether or not created by the department, concerning such  
201 investigation.

**Statement of Legislative Commissioners:**

In section 3, a reference to section 53-23 was deleted for accuracy.

**JUD**      *Joint Favorable Subst.*



The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** None

**Affected Agencies:** Department of Children and Families, Judicial Department, Office of the Attorney General, Probate Court, Various Agencies Issuing Professional Licenses or Certifications

**Municipal Impact:** None

**Explanation****State Impact:**

It is anticipated that the Department of Children and Families (DCF) can comply with Section 1 of the bill, which adds additional circumstances under which the agency is required to transmit copies of otherwise confidential records, within its normally budgeted resources.

Section 2 requires DCF to adopt regulations to establish a process whereby persons who are substantiated as a perpetrator of child abuse or neglect are given an opportunity to contest the finding. This renders statute consistent with federal law, and conforms to current agency practice. The department will be able to develop proposed regulations within its anticipated budgetary resources.

Section 3 allows any party other than DCF to petition the Superior

Court for a determination on whether reasonable efforts to reunify a child and their parent are appropriate. The court must hold an evidentiary hearing on such petition within thirty days of its filing. It is anticipated that any additional hearings can be accommodated within the normally budgeted resources of DCF, the Office of the Attorney General and the Judicial Department.

Section 5 requires additional information to be provided on an application to the Probate Court for commitment of a child due to mental illness. This can be accommodated within the court's anticipated budgetary resources.

Section 6 requires DCF to notify and provide records of an investigation of alleged child abuse by a staff member of a child caring facility, institution or school, to a state agency that issued the individual's professional license or certificate. It is assumed that the number of such incidents will be minimal in number and that DCF can provide these records within its normally budgeted resources. Any resulting investigations or disciplinary actions taken by state licensing agencies will be done in accord with each specific agency's regulatory authority and can be accommodated within their normal workloads.

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**OLR BILL ANALYSIS**

sHB 6652

**AN ACT CONCERNING REVISIONS TO THE CHILD PROTECTION LAWS.**

**SUMMARY:**

This bill makes numerous changes in the child protection laws. It:

1. requires the Department of Children and Families (DCF), on request, to provide copies of otherwise confidential records to any party in an abuse or neglect or termination of parental rights proceeding when the child's custody is at issue and the records are about the child or his parent;
2. requires DCF's regulations implementing its child abuse registry to include an appeals process for people challenging the agency's determination that they were responsible for child abuse or neglect, which triggers inclusion in the registry;
3. requires courts to hold evidentiary hearings when any party in an abuse or neglect proceeding requests this to determine whether efforts to reunify parents and children should continue, adds additional misconduct by the parent as grounds for terminating such efforts, and raises the level of proof required to clear and convincing evidence;
4. makes clear and convincing evidence the standard for terminating reunification efforts in yearly permanency plan hearings; and
5. requires probate court applications to commit children with mental illness to include the name, address, and phone number of the child's attorney, if one has been appointed to represent him in an abuse or neglect proceeding; and
6. requires the DCF commissioner to notify, and provide its

investigatory records to, state licensing or certification agencies whenever it determines that a licensed or certified school employee or staff member of a facility caring for children has abused a child.

EFFECTIVE DATE: October 1, 2001

## **REGULATIONS**

The bill requires DCF to adopt regulations establishing appeals hearing procedures for people who challenge the agency's determination that they have abused or neglected a child. DCF makes these determinations after investigating and substantiating abuse or neglect reports. The agency currently has regulations governing the use and operation of the registry but no procedure for resolving disputes over information it contains.

By law, DCF includes such determinations in its records and must disclose them, upon request, to (1) law enforcement agencies; (2) prosecutors; (3) a child's court-appointed attorney and guardian ad litem (a person representing the child's best interests); (4) the Department of Public Health, which licenses childcare workers, and the Department of Social Services, which subsidizes child care for some low-income children; and (5) local boards of education.

Violators of these regulations must be fined up to \$1,000 or imprisoned for up to one year.

## **COURT REUNIFICATION HEARINGS**

The bill requires courts hearing abuse and neglect cases to hold evidentiary hearings within 30 days of any party's request for a determination of whether DCF must continue its efforts to reunify a parent and a child in its custody.

The bill also adds the following as parental actions ("aggravating factors") that may serve as the basis for a judge's decision that further reunification efforts are inappropriate:

1. deliberately killing or seriously injuring another one of their children (currently only such actions against the child's siblings are

covered) or

2. voluntarily surrendering to emergency nurses, within 30 days of birth, the child who is the subject of the reunification efforts.

The bill requires clear and convincing proof of all aggravating factors.

Currently, only DCF can initiate such proceedings. There is no evidentiary hearing requirement, heightened standard of proof, or time limit within which the court must act on such issues. Grounds that can support a court's determination that further reunification efforts are unnecessary currently include parental abandonment, sexual molestation, or severe physical abuse of the child; involuntary termination of rights to another child; and some sexual assault convictions.

## **BACKGROUND**

### ***Related Bill***

SHB 6891, reported favorably by the Judiciary Committee, permits judges holding permanency plan hearings to rely on previous rulings that reunification efforts are inappropriate. It does not specify a heightened standard of proof.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 36      Nay 0